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Daniel Y. Abramovitch

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**HEWLETT PACKARD COMPANY** P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400

**EXAMINER** TRAN, THANG V

PAPER NUMBER ART UNIT

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Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.   Applicant(s)   ABRAMOVITCH ET AL.	· · · · · · · · · · · · · · · · · · ·			
Examiner   Thang V. Tran.   2653   2553	•	Application No.	Applicant(s)	
Theng V. Tran   Z653	Office Action Summary	09/997,036	ABRAMOVITCH ET AL.	
The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of min may be windle burden the provided and of the provided in the provide of the may be under the provided burden the provided and the provided of the pro		Examiner	Art Unit	
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  after SIX (b) MONTH'S from the realing date of this communication. 1.38(a). In no event, however, may a reply be limely filed after SIX (b) MONTH'S from the realing date of this communication. If the period for reply reported after all supply and will expire SIX (b) MONTH'S from the maining date of this communication. If the period for reply begind after the such as the such and supply and will expire SIX (b) MONTH'S from the maining date of this communication. If the period for reply begind after the maining date of this communication, even if limely filed, may reduce a my realized attent that me the membra after the maining date of this communication, even if limely filed, may reduce any examined patient term adjustment. See 37 CFR 1.704(b).  Status  1)	The MAIL INC DATE of this communication			
THE MAILING DATE OF THIS COMMUNICATION.  Extensions or the may be available under the provisions of 3 CPR 1.158(a). In no event, however, may a reply be timely filed after SIX (6) MONT TIS from the mailing date of this communication.  Failable to reply by within the set or extended pends of the communication.  Failable to reply within the set or extended pends of the reply will, by statistic, cause the application to become ARANDONED (38 U.S. § 133). Any reply received by the Other Barb and the mailing date of this communication, even if smelly fleed, may reduce any says patient term adjustment. See 57 CPR 1.704(b).  Status  1) Responsive to communication(s) filed on 27 June 2003.  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Calams  4) Claim(s) 1-109 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 1-27 is/are allowed.  6) Claim(s) 1-27 is/are allowed.  6) Claim(s) 1-10.3 and 105 is/are objected to.  3) Claim(s) 10.1 0.3 and 105 is/are objected to.  3) Claim(s) 1-10.1 and 105 is/are objected to.  4pplication Papers  Application Papers  Application with any not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  10) Above or certain or so objected to by the Examiner.  11) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for domestic priority unde				
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2a)  This action is FINAL. 2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s) 1-109 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) 1-37 is/are allowed.  6)  Claim(s) 38-100.102.104 and 106-109 is/are rejected.  7)  Claim(s) 101, 103 and 105 is/are objected to.  8)  Claim(s) are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner.  10)  The drawing(s) filed on 11/27/01 is/are: a)   accepted or b)   objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11)  The proposed drawing correction filed on is: a)   approved b)   disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12)  The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All b)  Some * c) None of:  1.  Certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a)  The translation of the foreign language provisional application has been received.  15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		on <i>27 June 2003</i> .		
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11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1 Certified copies of the priority documents have been received.  2 Certified copies of the priority documents have been received in Application No  3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413) Paper No(s)  5) Notice of Informal Patent Application (PTO-152)	10)⊠ The drawing(s) filed on <u>11/27/01</u> is/are: a)□ accepted or b)□ objected to by the Examiner.			
If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some *c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413) Paper No(s).  1) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).			
12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413) Paper No(s)  Notice of Draftsperson's Patent Drawing Review (PTO-948)	11) The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.			
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The communication dated 06/27/03 has been considered with the following results:

## Recapture

Claims 38-100, 102, 104, and 106-109 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. The reissue claims are broader than the patent claims by removal of limitation that was added in the patent prosecution to secure allowance over the prior art. See decision in *Pannu v. Storz Instrument Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001), Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

The reissue claims 38-94, 100, 102, 104 and 106 are broader than the patent claims because the reissue claims 38-94 do not include precise key limitations "rewritten" and "the reference clock structure permitting the generation of a clock reference signal which controls where first and second transition edges of data marks are written to the recording layer with sub-bit accuracy" nor retain the above precise key limitations in broadened form which are added or argued to over come the art rejection in original prosecution.

The reissue claims 95-99 and 107-109, are broader than the patent claims because the reissue claims 95-99 and 107-109 do not include precise key limitations "re-written" and "data signal having a frequency spectrum in which the clock reference signal

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frequency is within fundamental frequency component of the frequency spectrum" nor retain the above precise key limitations in broadened form which are added or

argued to over come the art rejection in original prosecution.

## Allowable Subject Matter

2. Claims 1-37 are allowed over the prior art of record because the prior art.

3. Claims 101, 103 and 105 are objected to as being dependent upon a rejected base

claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

## Response to Arguments

4. Applicant's arguments with respect to claims 38-109 have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thang V. Tran whose telephone number is (703) 308-1551. The examiner can normally be reached on Tuesday to Friday, from 7:30AM to

6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Thang V. Tran
Primary Examiner
Art Unit 2653